

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

GOLDEN STAR WHOLESALE, INC.,

Plaintiff,

V.

Civil Action No. 4:19-cv-10958

Hon. Stephanie Dawkins Davis

ZB IMPORTING, INC. and
RANI REFRESHMENTS FZCO,

Magistrate Judge Anthony P. Patti

Defendants. /

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**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF
PLAINTIFF'S MOTION TO DISMISS AMENDED COUNTERCLAIMS
AND FOR JUDGMENT ON THE PLEADINGS**

Plaintiff Golden Star Wholesale, Inc. submits the attached records from the U.S. Copyright Office as supplemental authority in support of its pending dispositive motion. As official governmental records not subject to dispute (indeed, Defendant Rani authored them), the Court may take judicial notice of them under FRE 201. The records are copies of the deposits that Rani submitted along with its applications for the copyrights at issue in this case—applications that were filed only after the litigation began. At significant expense to itself, Golden Star requested copies of these deposits from the Copyright Office in April 2020, but the Office only fulfilled the order on November 10, 2020, shortly after the Court held argument on Golden Star’s motion.

The deposits are relevant to the motion because they demonstrate that the scope of Rani’s already-dubious copyright is even narrower than what Rani claims. “Rani asserts that the copyright claim is supported by the shape of the can, the blue background, colored droplets, sliced fruit, the word ‘floats,’ and the name of the fruit, among other things, all arranged in a unique manner.” DE 36, PgID 302 (emphasis added). Yet the scope of Rani’s copyright protection is limited to its deposit, which must be a “complete copy” of the work. 17 USC §408(b). The deposits Rani filed include only “the blue background, colored droplets, sliced fruit, the word ‘floats,’” but not the remaining elements. This further narrows the scope of any copyright Rani can assert in this case, therefore making Rani’s copyright infringement arguments even less plausible.

CONCLUSION

For the foregoing reasons, Plaintiff Golden Star Wholesale, Inc. respectfully requests that this Court grant the relief sought by its motion.

Respectfully submitted:

Date: November 19, 2020

WARNER NORCROSS + JUDD LLP

By: /s/ Brian D. Wassom

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CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2020, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to the participants of the ECF system.

By: /s/ Kimberly Bankeroff

Clear Form



UNITED STATES COPYRIGHT OFFICE

Receipt of Payment

RECORDS RESEARCH
& CERTIFICATION

Name: Brian Wassom
 Address: 45000 River Ridge Dr., Suite 300
 Clinton Township MI 48038
 Phone: (248) 784-5039

Completed Date: 11/10/2020 (LAW)
 Service Request No.: 1-9111108561
 Registration No.: VA 2-150-024 & 2 others
 Title:
 Other:

Service	Unit Price	Quantity	Fee	Amount Paid
Estimate				
Estimate for retrieval (to be credited toward request)	\$200.00	\$0.00	\$0.00	\$0.00
Retrieval Services				
Physical deposit	\$200.00 per hour (1 hour min.) or per 6		\$ 0.00	\$ 0.00
Electronic deposit	\$200.00 per hour (half hour min.)	1	\$200.00	\$200.00
Each additional 15 minutes	\$50.00		\$ 0.00	\$ 0.00
Electronic application	\$200.00 per hour (half hour min.)		\$ 0.00	\$ 0.00
Each additional 15 minutes	\$50.00		\$ 0.00	\$ 0.00
Physical correspondence	\$200.00 per 6		\$ 0.00	\$ 0.00
Electronic correspondence	\$200.00 per hour (half hour min.)		\$ 0.00	\$ 0.00
Each additional 15 minutes	\$50.00		\$ 0.00	\$ 0.00
Retrieval for inspection of correspondence (physical)	\$200.00		\$ 0.00	\$ 0.00
Retrieval for inspection of correspondence (e-file)	\$200.00 per hour (half hour min.)		\$ 0.00	\$ 0.00
Retrieval for inspection of deposit (physical)	\$200.00		\$ 0.00	\$ 0.00
Retrieval for inspection of deposit (e-file)	\$200.00 per hour (half hour min.)		\$ 0.00	\$ 0.00
Copy Services				
Additional certificate	\$55.00		\$ 0.00	\$ 0.00
Black and white	\$12.00		\$ 0.00	\$ 0.00
Color	\$12.00	3	\$36.00	\$36.00
CD/DVD	\$12.00		\$ 0.00	\$ 0.00
Flash drive	\$12.00		\$ 0.00	\$ 0.00
Audio cassette	\$12.00		\$ 0.00	\$ 0.00
Video cassette	\$12.00		\$ 0.00	\$ 0.00
Additional Services				
Litigation statement	\$100.00 per statement	3	\$300.00	\$300.00
Certification	\$200.00		\$ 0.00	\$ 0.00
Double certified certificates	\$255.00		\$ 0.00	\$ 0.00
Expedited service	\$500.00 per hour		\$ 0.00	\$ 0.00
Overnight shipping (FedEx)	\$45.00		\$ 0.00	\$ 0.00
Fax	up to 7 pages (\$7 min.)		\$ 0.00	\$ 0.00
Each additional page	\$1.00 per page		\$ 0.00	\$ 0.00
Public photocopying	\$0.25 per page		\$ 0.00	\$ 0.00
Outside Service (DUPL/MBRS)	\$		\$ 0.00	\$ 0.00
Search Services				
Search estimate	\$200.00		\$ 0.00	\$ 0.00
Litigation search	\$200.00 per hour		\$ 0.00	\$ 0.00
Inspection search	\$200.00 per hour		\$ 0.00	\$ 0.00
Search report	\$400.00 first 2 hours (2 hour min.)		\$ 0.00	\$ 0.00
Each additional hour	\$200.00		\$ 0.00	\$ 0.00
Other Services				
	\$		\$ 0.00	\$ 0.00
Total Fee			\$536.00	
Total Amount Paid				\$536.00
Refund				\$ 0.00



COPY OF DEPOSIT
VA 2-150-024
(SR 1-7658457892)

***NOTE: Deposits submitted electronically bear no identifying marks





COPY OF DEPOSIT
VA 2-150-025
(SR 1-7658364721)

***NOTE: Deposits submitted electronically bear no identifying marks





COPY OF DEPOSIT
VA 2-150-026
(SR 1-7658458010)

***NOTE: Deposits submitted electronically bear no identifying marks

